

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 663 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? No
2. To be referred to the Reporter or not? No :
3. Whether Their Lordships wish to see the fair copy of the judgement? No
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO No
5. Whether it is to be circulated to the Civil Judge? No :

LABHUBEN D CHAUHAN

Versus

SWASTIK INDUSTIRAL CORPORATIONTHROUGH CHIMANLAL DOSHI

Appearance:

MR DU SHAH for Petitioner

MS VASUBEN P SHAH for Respondent No. 1

CORAM : MR.JUSTICE D.C.SRIVASTAVA

Date of decision: 07/07/2000

ORAL JUDGEMENT

1. The plaintiff land-lady has preferred this revision under Section 29(2) of the Bombay Rent Act challenging the Judgment and Decree of the Lower Court rendered on 30th October, 1985.

2. Brief facts giving rise to this Revision are that the disputed premises was let out to the defendant respondent on monthly rent of Rs.130/- plus water and drainage charges, etc. The Land lady filed Suit for eviction of the tenant on three grounds, viz. that the tenant fell in arrears of rent exceeding six months which was not paid despite service of notice. The second ground for eviction was that the tenant has raised permanent structure without the consent of the land-lady and the third ground for eviction was that the tenant has acquired suitable accommodation for his residence. Dispute of standard rent was also raised for which Civil Miscellaneous Application No.173 of 1974 was filed. In this the standard rent was fixed at the rate of Rs.75/p.m. as against the claim of the land-lady that the agreed rent was Rs.130/- p.m.

3. The tenant appeared, filed written statement and denied all these allegations.

4. The trial Court, after considering the evidence on record, found that the tenant was neither in arrears of rent exceeding six months nor he acquired suitable alternative accommodation for his residence nor he raised any permanent structure in the suit accommodation without written consent of the land-lady. Accordingly the Suit was dismissed.

5. Feeling aggrieved the land-lady preferred Appeal where only two points were urged. The first was that the tenant raised permanent structure in the suit accommodation without her written consent and that the tenant has acquired alternative suitable accommodation for his residence. The plea that the tenant was in arrears of rent for more than six months was not pressed in Appeal.

6. The Appellate Court, after examining the Judgment of the trial Court and entire evidence on record, concluded that the accommodation acquired by the tenant cannot be said to be sufficient for the purpose of his personal need. It further found that the tenant did not raise any permanent structure without written consent of the land-lady. Accordingly the Appeal was dismissed. It is therefore this Revision by the unsuccessful land-lady.

7. Having heard Shri D.U.Shah, learned Counsel for the Revisionist and examining the Judgment under challenge I find that there is concurrent findings of fact recorded by the two Courts below. These findings

are based upon evidence on record which has been properly appreciated by the two courts below. Consequently the Revisional court would be disinclined to interfere with such concurrent findings rather by no stretch of imagination it can be said to be perverse. No illegality has been committed by the two Courts below in recording such findings nor the findings are contrary to law. As such I do not find any merit in this Revision Application which is hereby dismissed.

The Revision Application is dismissed with no order as to costs.

sd/-

Date : July 07, 2000 (D. C. Srivastava, J.)

sas